

TITLE V. EXTRAORDINARY WRITS

FEDERAL RULES OF APPELLATE PROCEDURE

Rule 21. Writs of Mandamus and Prohibition, and Other Extraordinary Writs

(a) Mandamus or Prohibition to a Court: Petition, Filing, Service, and Docketing.

- (1) A party petitioning for a writ of mandamus or prohibition directed to a court must file a petition with the circuit clerk with proof of service on all parties to the proceeding in the trial court. The party must also provide a copy to the trial-court judge. All parties to the proceeding in the trial court other than the petitioner are respondents for all purposes.
- (2) (A) The petition must be titled “In re [name of petitioner].”
 (B) The petition must state:
 - (i) the relief sought;
 - (ii) the issues presented;
 - (iii) the facts necessary to understand the issue presented by the petition; and
 - (iv) the reasons why the writ should issue.
 (C) The petition must include a copy of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.
- (3) Upon receiving the prescribed docket fee, the clerk must docket the petition and submit it to the court.

(b) Denial; Order Directing Answer; Briefs; Precedence.

- (1) The court may deny the petition without an answer. Otherwise, it must order the respondent, if any, to answer within a fixed time.
- (2) The clerk must serve the order to respond on all persons directed to respond.
- (3) Two or more respondents may answer jointly.
- (4) The court of appeals may invite or order the trial-court judge to address the petition or may invite an amicus curiae to do so. The trial-court judge may request permission to address the petition but may not do so unless invited or ordered to do so by the court of appeals.
- (5) If briefing or oral argument is required, the clerk must advise the parties, and when appropriate, the trial-court judge or amicus curiae.

FEDERAL CIRCUIT RULE

Rule 21. Writs of Mandamus and Prohibition, and Other Extraordinary Writs

(a) Title; Fee; Answer.

- (1) A petition for writ of mandamus or writ of prohibition directed to a court or an agency must be entitled: “In Re [name of petitioner], Petitioner.”
- (2) The petition must include a certificate of interest.
- (3) The petition must state the name, address, telephone number and, if applicable, facsimile number of each person served.
- (4) The fee set forth in Federal Circuit Rule 52 must accompany the petition.
- (5) No answer may be filed by any respondent unless ordered by the court.

(b) Length of Petition, Answer; Copies; Briefs.

- (1) A petition for writ of mandamus or prohibition, or answer if one is ordered, may not exceed 20 pages.
- (2) An original and four copies of the petition or answer must be filed.
- (3) A separate brief supporting or answering a petition is not permitted.

(c) Service of Order Denying Petition. If the petition is denied, the petitioner must serve a copy of the order denying the petition on all persons served with the petition unless such a person has entered an appearance in the proceeding or has been sent a copy of the order by the clerk.

FEDERAL RULES OF APPELLATE PROCEDURE

FEDERAL CIRCUIT RULE

- (6) The proceeding must be given preference over ordinary civil cases.
- (7) The circuit clerk must send a copy of the final disposition to the trial-court judge.
- (c) **Other Extraordinary Writs.** An application for an extraordinary writ other than one provided for in Rule 21(a) must be made by filing a petition with the circuit clerk with proof of service on the respondents. Proceedings on the application must conform, so far as is practicable, to the procedures prescribed in Rule 21(a) and (b).
- (d) **Form of Papers; ~~Number of Copies~~.** All papers must conform to Rule 32(a)(1). ~~An original and 3 copies must be filed unless the court requires the filing of a different number by local rule or by order in a particular case.~~

Practice Note

Form Requirements. See Federal Circuit Rule 32(f) for form requirements for petitions and other documents.